



Paper No. 7

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
767 THIRD AVENUE
25TH FLOOR
NEW YORK, NY 10017-2023

COPY MAILED

AUG 05 2002

OFFICE OF PETITIONS

In re Application of
Satoshi Hasegawa
Application No. 09/981,207
Filed: October 17, 2001
Attorney Docket No. 01658/LH

:
: DECISION DISMISSING
: PETITION
:
:

This is a decision on the petition filed March 15, 2002 (certificate of mail date), requesting that the above-identified application be accorded a filing date of October 17, 2001, with pages 3, 12 and 32 as a part of the original disclosure of the application.

The application was filed on October 17, 2001. However, on March 8, 2002, Initial Patent Examination Division mailed a "Notice of Omitted Item(s)" stating that the application had been accorded an October 17, 2001 filing date, but that pages 3, 12 and 32 of the specification appeared to have been omitted.¹

In response, on March 15, 2002 (certificate of mail date), a pages 3, 12 and 32 of the specification was filed accompanied by the present petition. Petitioner argues that pages 3, 12 and 32 were filed on January 7, 2002 (certificate of mail date December 13, 2001). In support, the petition, which is signed by a registered practitioner, includes a statement by a Secretary, Sharon Portnoy, that 34 pages of the specification, including pages 3, 12 and 32 were part of the application as originally filed.

The argument and evidence presented are not persuasive. The Office file is the official record of the papers originally filed in this application. A review of the official record reveals that no pages 3, 12 and 32 were filed with the original application papers. Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard (e.g. the number of pages of specification (including written description, claims, and abstract), number of claims, number of sheets of drawings, and number of pages of oath/declaration. The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. As petitioner has provided no convincing evidence that drawing pages 3, 12 and 32 were filed in the USPTO on January 7, 2002 (certificate of mail date December 13, 2001), the petition must be dismissed.

¹A Notice to File Missing Parts was mailed November 16, 2001 requiring the filing of the English Translation of the application and substitute drawings in compliance with 37 CFR 1.84. In response, on January 7, 2002 (certificate of mail date December 13, 2001), an English Translation and Formal Drawings, *inter alia*, were filed, which necessitated the March 8, 2002 mailing of the Notice of Omitted Items.

The petition is **dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By FAX: (703)308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

The application is being forwarded to Initial Patent Examination Division for further processing with a filing date of October 17, 2001, and for an indication on the bib-data sheet that pages 3, 12 and 32 of the specification were not present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy